IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

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PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 25497 of 1995

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Between:

Desamsetti Rajulu, S/o Veerrajum
R/o Veerabhadrapuram Village, Addateegala Mandal,
East Godavari District.

..... PETITIONER

AND

1 The Agent to Government, East Godavari,
Kakinada, East Godavari District.
2 The Deputy Collector, Tribal Welfare,
East Godavari District, Rampachodvaram,
East Godavari District.
3 The Special Deputy Tahsildar (Tribal Welfare)
Addateegala, Addateegala Mandal,
East Godavari District.
4 The Mandal Revenue Officer,
Addateegala Mandalam, East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate order or direction more particularly a writ in the nature of CERTIORARI to quash the judgment in C.M.A.NO.16/95 DT:10-9-1995 on the file of the Agent to Government, East Godavari District, Kakinada, declaring the same as being illegal, void and to pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.G.DHARMA RAO

Counsel for the Respondents: GP FOR SOCIAL WELFARE

The Court made the following :

ORDER:

The petitioner seeks a writ from this court calling upon the respondent to show cause why a writ in the nature of Certiorari shall not be issued, after calling the records in CMA No.16 of 1995 dated 10-9-1995 on the file of Agent to Government, East Godavari, Kakinada, who dismissed the above appeal filed by the petitioner and confirmed the ejectment order passed by the Deputy Collector, Tribal Welfare in L.T.R.P.No.27 of 1995 dated 28-1-1995, and to quash the same.

The Tahsildar filed a complaint under Section 3 of the Andhra Pradesh (Scheduled Areas) Land Transfer Regulation 1 of 1959 as amended by Regulation 1 of 1970 (for short Regulation 1 of 1970) on behalf of the Government for due eviction of the petitioner and for restoration of the land admeasuring Acs.4.79 in Rs.No.9/1 and 22 of Veerabhadrapuram Village, Addateegala Mandal to the Government alleging that

the petitioner is a non-tribal and is in possession of the above property in violation of the Regulations.

On initiation of proceedings petitioner attended the enquiry and deposed that he belongs to Kapu caste (non-tribal) and that the land belongs to his maternal aunt. The said lands were auctioned by the Government. In the said auction his father purchased the land on 23-10-1946 and the sale transaction was registered in Sub-Registrar Office on 25-10-1946 and the same was marked as Ex.B1. He also deposed that since the date of purchase the properties were in possession and enjoyment of his family and the said lands were never in occupation of the tribals at any point of time. The Collector, Tribal Welfare observing that the lands were registered in the name of Choppara Appanna and the sale transaction took place between Choppara Lakshmi Devi W/o. Thammayya in favour of the father of the petitioner and the petitioner has not produced any evidence to establish that the properties were under the occupation of non-tribals at any point of time prior to 1946. In view of the presumption under Section 3(1)(b) of the Regulation 1 of 1959 as amended by Regulation 1 of 1970, unless the contrary is proved, it shall be presumed to have been acquired by a person or his predecessor in possession through a transfer made to him by a member of the scheduled tribe. Since the petitioner failed to discharge the burden cast upon him, the transaction is hit by the provisions of the Act and accordingly ordered for ejectment. Aggrieved by the same, the petitioner carried the matter in appeal in CMA No.16 of 1995 and no other evidence was produced except reiterating the arguments which were raised before the primary authority. The appellate authority after going through the record and drawing the presumption, in the absence of any other evidence, confirmed the order of ejectment. Questioning the same, the present writ petition is filed.

Even in the writ petition except stating that the petitioner's father purchased the property under a registered sale deed in 1946, the petitioner has not substantiated his submission stating that drawing of presumption by the court below is erroneous or contrary to the provisions.

Both the courts below concurrently found that the petitioner is not entitled to continue in possession and the transaction is hit by provisions of the Regulation 1 of 1970. Hence the transfer is presumed to be from a tribal to non-tribal. It is well settled that under Certiorari jurisdiction this court cannot interfere with the concurrent findings arrived at by the courts below unless it is shown that the findings are so perverse

and are contrary to the legal principles enunciated under the Act.

In view of the same, no interference is called for in exercise of the Certiorari jurisdiction. Accordingly the writ petition is dismissed. No costs.

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A. Gopal Reddy, J.

2nd November, 2004.

Js.

ASSISTANT REGISTRAR

To

1 The Agent to Government, East Godavari,
Kakinada, East Godavari District.

2 The Deputy Collector, Tribal Welfare,
East Godavari District, Rampachodvaram,
East Godavari District.

3 The Special Deputy Tahsildar (Tribal Welfare)
Addateegala, Addateegala Mandal,
East Godavari District.

4 The Mandal Revenue Officer,
Addateegala Mandalam, East Godavari District.

5 Two CCs to G.P. for Social Welfare, High Court of A.P. Buildings,
Hyderabad (OUT)

6 Two CD Copies.